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In re Application of
Young-Min SONG
Application No.: 10/527,013
PCT No.: PCT/KR04/01397
Int. Filing Date: 11 June 2004
Priority Date: 22 April 2004
Attorney Docket No.: RODA 101
For: AUXILIARY TOOL FOR EXAMINATION
OF BIOPSY SPECIMEN

DECISION ON
DECLARATION

This is a decision on applicants' "CORRECTED APPLICATION PAPERS TRANSMITTAL", filed on 15 February 2006 in the United States Patent and Trademark Office (USPTO), requesting acceptance of the declaration in the above reference application.

BACKGROUND

On 07 March 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee. The first page of the transmittal letter incorrectly indicated an international application no. PCT/RK04/01397; it should have read PCT/KR04/01397 as listed on the subsequent pages.

On 27 December 2005, a Notification of Missing Requirements was mailed to applicant indicating that the oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required because the declaration submitted on 07 March 2005 identified an inventor not listed on the international application.

On 16 February 2006, applicant filed "Corrected Application Papers Transmittal" indicating that Mr. Lee is listed on the Request as a co-inventor. Applicant did not provide Form PCT/IB/306 adding Sei-Jin Lee as a co-inventor.

DISCUSSION

A review of the published international application PCT/KR04/01397 reveals that Young-Min Song is the sole inventor and identifies Sei-Jin Lee as the agent. Applicant did not provide an Notification of the Recording of A Change (Form PCT/IB/306) issued by the International Bureau adding Sei-Jin Lee as a co-inventor under PCT Rule 92*bis*.

The declaration submitted on 07 March 2005 erroneously identifies Kyeongil Kim as a co-

inventor with Young-Min Song and thus is not in compliance with 37 CFR 1.497(a) and (b). Since there is no indication that Kyeongil Kim was accepted by the International Bureau under PCT Rule 92*bis* as a co-inventor, it is improper to accept the declaration identifying him as a co-inventor.

CONCLUSION

The declaration executed by Kyeongil Kim as a joint inventor of Young-Min Song in the above referenced application is unacceptable and not in compliance with 37 CFR 1.497(a) and (b). A new declaration, in compliance with 37 CFR 1.497(a) and (b), and executed by sole inventor Young-Min Song is required.

The application will be held in the PCT Legal Office to await applicant's further reply.

Any reconsideration on the merits of the petition under 37 CFR §1.497(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.497(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.


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